within the meaning of this part; however, for a good of a NAFTA country, the NAFTA Marking Rules will determine the country of origin.

(c) *Foreign origin.* "Foreign origin" refers to a country of origin other than the United States, as defined in paragraph (e) of this section, or its possessions and territories.

(d) *Ultimate purchaser.* The "ultimate purchaser" is generally the last person in the United States who will receive the article in the form in which it was imported; however, for a good of a NAFTA country, the "ultimate purchaser" is the last person in the United States who purchases the good in the form in which it was imported. It is not feasible to state who will be the "ultimate purchaser" in every circumstance. The following examples may be helpful:

(1) If an imported article will be used in manufacture, the manufacturer may be the "ultimate purchaser" if he subjects the imported article to a process which results in a substantial transformation of the article, even though the process may not result in a new or different article, or for a good of a NAFTA country, a process which results in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in the article's country of origin.

(2) If the manufacturing process is merely a minor one which leaves the identity of the imported article intact, the consumer or user of the article, who obtains the article after the processing, will be regarded as the "ultimate purchaser." With respect to a good of a NAFTA country, if the manufacturing process does not result in one of the changes prescribed in the NAFTA Marking Rules as effecting a change in the article's country of origin, the consumer who purchases the article after processing will be regarded as the ultimate purchaser.

(3) If an article is to be sold at retail in its imported form, the purchaser at retail is the "ultimate purchaser."

(4) If the imported article is distributed as a gift the recipient is the "ultimate purchaser", unless the good is a good of a NAFTA country. In that case, the purchaser of the gift is the ultimate purchaser.

(e) *United States.* "United States" includes all territories and possessions of the United States, except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam.

(f) *Customs territory of the United States.* "Customs territory of the United States," as used in this chapter includes the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(g) *Good of a NAFTA country.* A "good of a NAFTA country" is an article for which the country of origin is Canada, Mexico or the United States as determined under the NAFTA Marking Rules.

(h) *NAFTA.* "NAFTA" means the North American Free Trade Agreement entered into by the United States, Canada and Mexico on August 13, 1992.

(i) *NAFTA country.* "NAFTA country" means the territory of the United States, Canada or Mexico, as defined in Annex 201.1 of the NAFTA.

(j) *NAFTA Marking Rules.* The "NAFTA Marking Rules" are the rules promulgated for purposes of determining whether a good is a good of a NAFTA country.

(k) *Conspicuous.* "Conspicuous" means capable of being easily seen with normal handling of the article or container.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 94–1, 58 FR 69471, Dec. 30, 1993; T.D. 95–68, 60 FR 46362, Sept. 6, 1995]

§ 134.2 Additional duties.

Articles not marked as required by this part shall be subject to additional duties of 10 percent of the final appraised value unless exported or destroyed under Customs supervision prior to liquidation of the entry, as provided in 19 U.S.C. 1304(f). The 10 percent additional duty is assessable for failure either to mark the article (or container) to indicate the English name of the country of origin of the article or to include words or symbols required to prevent deception or mistake.

[T.D. 72–262, 37 FR 20318, Sept. 29, 1972, as amended by T.D. 90–51, 55 FR 28190, July 10, 1990]